

## Under FMLA, what does it mean to “care for” a family member?

The Family Medical Leave Act of 1993 (FMLA) states that an eligible employee can take up to twelve weeks of leave during any 12-month period to care for a spouse, child, or parent who has a serious health condition. If necessary, the employee may take the leave intermittently or may work a reduced schedule.

But what does “care for” really mean? For example, can the employee take leave:

- To transport a family member to a doctor’s appointment?
- To run errands, such as grocery shopping, for the family member?
- To provide comfort and reassurance, rather than physical care, to a family member?
- To help other regular caregivers?

In regard to the FMLA, the Code of Federal Regulations (29 CFR 825.116) states:

- (a) The medical certification provision that an employee is “needed to care for” a family member encompasses both physical and psychological care. It includes situations where, for example, because of a serious health condition, the family member is unable to care for his or her own basic medical, hygienic, or nutritional needs or safety, or is unable to transport himself or herself to the doctor, etc. The term also includes providing psychological comfort and reassurance which would be beneficial to a child, spouse or parent with a serious health condition who is receiving inpatient or home care.
- (b) The term also includes situations where the employee may be needed to fill in for others who are caring for the family member, or to make

arrangements for changes in care, such as transfer to a nursing home.

- (c) An employee’s intermittent leave or a reduced leave schedule necessary to care for a family member includes not only a situation where the family member’s condition itself is intermittent, but also where the employee is only needed intermittently—such as where other care is normally available, or care responsibilities are shared with another member of the family or a third party.

According to federal regulations, the term “to care for” encompasses a broad range of activities. An employee can take leave to transport the family member to a doctor’s appointment, or to run an errand for the family member if he/she cannot do it himself/herself. The employee can also take leave to comfort a sick spouse, child or parent; or to help a primary caregiver.

### Medical certification for FMLA leave

As allowed under the FMLA, most employers require employees to provide medical certification in order to take FMLA leave to care for a family member with a serious health condition. If the employee is taking intermittent leave, the employer may require the employee to provide medical certification each time the employee takes leave.

Furthermore, when the need for leave is foreseeable, the employee must provide the employer with as much notice as possible (preferably 30 days or more). The employee shall also make a reasonable effort to schedule the leave so that it will not unduly disrupt the operations of the employer.

For more information, contact CTSI at 303-861-0507.

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